

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

HOWARD F. CARROLL, #1067360

v.

JOHN RUPERT, et al

§

§

§

§ Civil action No. 6:15cv569

Plaintiff's "Notice" Of Appeal

Now comes, Howard F. Carroll, plaintiff in the above-styled and referenced cause and files this "Notice of Appeal", pursuant to the Rules of Federal Civil Procedures. Plaintiff seeks to appeal the "interlocutory" judgment of the court's denial of appointment of counsel, and will show the court the following :

Though there is no absolute right to appointment of counsel in a § 1983, where there are the "exceptional circumstances", the court is encouraged to do so in pro se prison litigants' cases. The court has determined that there are no extraordinary or exceptional circumstances in this case and that the case is not "unduly complicated" requiring appointment of counsel. Robbins v. Maggio, 750 F.2d 405 (5th Cir. 1985), plaintiff avers the court is incorrect.

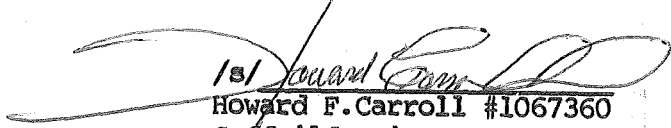
Plaintiff submitted with his request for appointment of counsel affidavits detailing his mental deficiency and incapability to affect even the basic fundamental law or civil concepts. This case involves very complicated and complexed medical issues that will require expert testimony, mental health issues that will require expert testimony and issues involving interpretations and argument of use of force policy, all these issues involve unduly complicated knowledge that plaintiff does not have, not and nor can he muster.

Plaintiff has been reliant complete on other offenders for the litigation of this case up to the current point. His reliance on these inmate prison writ writers is "absolute" plaintiff cannot even begin to comprehend the subtle nature of the knowledge required to affect this case, especially if the case goes to trial, as the defendants have not challenged the court's denial of the summary judgment, the case 'will' proceed to trial, plaintiff cannot depend on the inmate writ writers at trial. Plaintiff suffers from serious mental health issues that create chemical imbalances that effect and disrupts his ability to think and function well, even with his medication, he would be incapable of handling a trial without counsel.

The court has ordered that plaintiff's appointment of counsel be denied, but subject the later appointment if determination is later necessary (Dkt. 241-1). Plaintiff requests that he be evaluated for determination to be made whether he is capable of affecting a trial without counsel.

WHEREFORE, plaintiff prays the court will grant his Notice of Appeal.

Executed this 7 day of May, 2018


/s/ Howard F. Carroll #1067360
Coffield Unit
2661 FM 2054
Tennessee Colony, TX, 75884